

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TODD D. ROCHOW ET AL.,

Case No. 04-73628

Plaintiffs,

HONORABLE ARTHUR J. TARNOW
SENIOR UNITED STATES
DISTRICT JUDGE

v.

LIFE INSURANCE COMPANY OF NORTH
AMERICA,

HONORABLE R. STEVEN WHALEN
MAGISTRATE JUDGE

Defendant.

**ORDER DENYING DEFENDANT'S APPEAL [99] OF THE MAGISTRATE JUDGE'S
REPORT & RECOMMENDATION [98] DENYING
DEFENDANT'S MOTION TO STRIKE [87]**

Before the Court is Defendant's Appeal [99] of the Magistrate Judge's Report and Recommendation [98] denying Defendant's Motion to Strike Written Reports of Plaintiff's Expert Witness [87].

Defendant in this case moved to strike Dr. David C. Croson's reports that were filed on Plaintiffs' behalf. The Magistrate Judge denied Defendant's Motion to Strike [87] by Report and Recommendation [98]. Defendant Appeals [99]. Plaintiffs did not file a response.

The standard of review set forth in Federal Rule of Civil Procedure 72(a) governs this nondispositive matter. Fed. R. Civ. P. 72(a). Pursuant to that rule, "The district judge in the case must consider timely objections and modify or set aside any part of the [Magistrate Judge's] order that is clearly erroneous or is contrary to law." *Id.*

Under 28 U.S.C. § 636(b)(1), a magistrate judge's orders shall not be disturbed unless "found to be clearly erroneous or contrary to law." *See United States v. Curtis*, 237 F.3d 598, 603 (6th Cir. 2001). The "clearly erroneous" standard requires the Court to affirm the Magistrate's decision unless, after reviewing the entirety of the evidence, it "is left with the definite and firm conviction that a mistake has been committed." *See Sandles v. U.S. Marshal's*

Serv., 2007 WL 4374077, 1 (E.D. Mich. 2007) (citing *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

Upon review of the record, this Court finds that the Magistrate Judge did not err in his recommendation. In objecting to the R&R, Defendant simply restates arguments that the Magistrate Judge rejected. The Magistrate Judge's recommendation is well-reasoned and is supported by the law. Defendant has not shown that it is "clearly erroneous."

The Court has reviewed the record and being fully advised in the premises,

IT IS ORDERED that Defendant's Appeal [99] is **DENIED**.

IT IS FURTHER ORDERED that the Magistrate Judge's R&R [98] is **ADOPTED**.

IT IS FURTHER ORDERED that Defendant's Motion to Strike [87] is **DENIED**.

SO ORDERED.

s/Arthur J. Tarnow
ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

Dated: March 30, 2011

Certificate of Service

The undersigned certifies that a copy of this Order was served on the attorneys of record herein by electronic means or U.S. Mail on **March 30, 2011**.

s/Kim Grimes
Acting in the absence of
Lisa Ware, Case Manager